IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7259 OF 2004

Annasaheb Bhimsha Kognole & Ors. .. Petitioners.
Vs.
Shakuntala Dadu Chougule .. Respondent.

Mr.S.S.Shah for the petitioners.

CORAM : D.B.BHOSALE, J.

DATED : 8TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Shah, learned counsel for the petitioners.

2. This petition is filed against the order dated 22.7.2004 passed below Exhibit-84 in Special Civil Suit No.274 of 2001 allowing the respondent's application filed under Order I Rule 10 of the Code of Civil Procedure by which leave of the Court was sought to transpose her as the plaintiff in the suit after the death of the sole plaintiff. The deceased-plaintiff had filed the suit for partition and during its pendency he expired and in view thereof the respondent, who was defendant no.6 in the suit, filed an application for transposing her as the plaintiff. The deceased-plaintiff was

father of the respondent. The respondent being a female relation specified in Class I of the Schedule to Hindu Succession Act, 1956, is entitled to represent estate of the deceased by operation of section 6 of the Act read with Order 22 Rule 3 CPC. The Apex Court in Pavitri and Anr. Vs. Darbari Singh and Others (1993) 4 Supreme Court Cases 392 made this position of law clear. Keeping that in view and considering the overall facts and circumstances of the case, in my opinion, no interference is called for in the impugned order in this petition. The writ petition, therefore, fails and is dismissed as such. The hearing of the suit is expedited.

(D.B.Bhosale, J.)